

GENDER INEQUALITY IN WORKPLACE OPPORTUNITIES AND PAY: A CRITICAL EXAMINATION OF EQUAL PAY PRINCIPLES AND THEIR IMPLEMENTATION IN INDIA

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Abstract

Gender inequality in workplace opportunities and remuneration remains a persistent issue in India despite constitutional guarantees and statutory protections ensuring equality. The principle of equal pay for equal work has been recognized under Indian constitutional jurisprudence and reinforced through legislations such as the Equal Remuneration Act, 1976 and the Code on Wages, 2019. However, significant disparities continue to exist in wages, leadership opportunities, recruitment practices, and workplace participation. This paper critically examines the legal framework governing equal pay principles in India and evaluates the effectiveness of their implementation. It further analyzes structural barriers, socio-cultural biases, informal sector challenges, and judicial responses related to workplace discrimination. The paper also compares India's approach with international standards prescribed by the International Labour Organization and other global instruments. Through a critical legal and socio-economic analysis, the paper highlights the gap between legislative intent and practical enforcement while suggesting reforms to achieve substantive gender equality in employment and pay structures.

Keywords: Gender Inequality, Equal Pay, Workplace Discrimination, Equal Remuneration Act, Wage Gap, Labour Law, Women Employment, India, Gender Justice, Workplace Equality.

Introduction

Gender equality in employment and remuneration forms an essential component of social justice, economic development, and human rights protection. In modern democratic societies, equal pay for equal work is considered a fundamental principle aimed at eliminating discrimination based on gender in professional spaces. Despite global progress toward gender inclusivity, women across the world continue to experience disparities in wages, employment opportunities, promotions, and leadership representation. India, being one of the world's largest developing economies, faces significant challenges in ensuring equitable participation of women in the workforce.

The Indian Constitution guarantees equality through Articles 14, 15, and 16, which prohibit discrimination on grounds of sex and ensure equal opportunity in matters of public employment. Further, Article 39(d) under the Directive Principles of State Policy specifically directs the State to secure equal pay for equal work for both men and women. To implement these constitutional ideals, the Indian legislature enacted the Equal Remuneration Act, 1976, which sought to prevent gender-based wage discrimination and promote equal opportunities for women in employment. Subsequently, the Code on Wages, 2019 consolidated wage-related laws and reaffirmed the principle of non-discrimination in remuneration.

However, the practical implementation of equal pay principles remains weak due to structural inequality, patriarchal norms, lack of awareness, inadequate enforcement mechanisms, and the dominance of informal employment sectors where legal protections are often absent. Women in India frequently face occupational segregation, limited access to leadership positions, unpaid care burdens, and workplace harassment, all of which contribute to economic inequality. The gender wage gap in India remains significant despite legal safeguards, revealing the disconnect between law and social reality.

This paper critically examines the principle of equal pay and workplace equality in India by analyzing constitutional provisions, labour legislations, judicial interpretations, international obligations, and practical implementation challenges. It further evaluates the effectiveness of India's legal framework in addressing gender discrimination and proposes reforms aimed at ensuring substantive equality in employment opportunities and remuneration.

Main Body of the Paper

1. Constitutional Framework and Equal Pay Principles in India

The constitutional framework of India establishes equality as a foundational principle of governance and social justice. Gender equality in employment and remuneration derives its legitimacy from several constitutional provisions that collectively seek to eliminate discrimination against women. Article 14 guarantees equality before law and equal protection of laws to all individuals irrespective of gender. Article 15 prohibits discrimination on grounds of sex while Article 16 ensures equal opportunity in public employment. These provisions collectively establish the constitutional basis for workplace equality and protection against gender discrimination.

The Directive Principles of State Policy further reinforce these guarantees through Article 39(d), which directs the State to ensure equal pay for

equal work for both men and women. Though Directive Principles are non-justiciable, the judiciary has frequently interpreted them alongside Fundamental Rights to expand the scope of gender equality. The Supreme Court of India has repeatedly emphasized that equal pay for equal work constitutes a constitutional goal essential to social and economic justice.

The doctrine of equal pay gained judicial recognition in cases such as *Randhir Singh v. Union of India*, where the Supreme Court held that equal pay for equal work is a constitutional objective flowing from Articles 14 and 16. Similarly, in *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa*, the Court recognized wage discrimination against female employees as unconstitutional and violative of equality principles. These judgments strengthened the legal recognition of workplace equality in India.

Despite constitutional guarantees, socio-economic realities continue to hinder gender equality in employment. Women often encounter systemic barriers in recruitment, promotions, wage negotiations, and access to leadership roles. Cultural stereotypes continue to associate women primarily with domestic responsibilities, limiting their economic participation. The unequal distribution of unpaid care work significantly impacts women's career progression and earning capacity.

The constitutional framework, while progressive in principle, faces implementation challenges due to weak institutional enforcement and lack of awareness among employees. Furthermore, gender inequality is particularly severe in the informal sector where labour protections are minimally enforced. Millions of women employed in agriculture, domestic work, and unorganized industries remain outside effective legal protection.

Another limitation lies in the narrow interpretation of equality focused on formal equality rather than substantive equality. Merely guaranteeing equal treatment under law may not adequately address historical disadvantages and structural discrimination

faced by women. Substantive equality requires affirmative measures, gender-sensitive policies, and institutional reforms to ensure meaningful participation and economic empowerment.

Therefore, while the Indian Constitution provides a strong normative foundation for workplace equality and equal pay, practical realization of these rights remains incomplete. Effective implementation requires coordinated efforts involving legislation, judiciary, administrative authorities, employers, and society at large.

2. Equal Remuneration Act, 1976 and the Code on Wages, 2019

The Equal Remuneration Act, 1976 was enacted to fulfill India's constitutional obligation under Article 39(d) and international commitments under the International Labour Organization conventions. The primary objective of the legislation was to prevent discrimination in remuneration and recruitment practices based on gender. It mandated equal pay for men and women performing the same or similar work and prohibited discrimination in employment opportunities.

The Act defined "same work or work of a similar nature" as work requiring similar skill, effort, and responsibility under comparable working conditions. Employers were prohibited from paying unequal wages solely on the basis of sex. The legislation also provided for advisory committees to promote employment opportunities for women and empowered authorities to hear complaints regarding wage discrimination.

Despite its progressive objectives, the Equal Remuneration Act faced several implementation challenges. One major issue was the ambiguity in determining whether two jobs constituted similar work. Employers often manipulated job titles and responsibilities to justify wage differences. Further, enforcement mechanisms remained weak due to lack of inspections, poor monitoring, and limited awareness among women workers.

The informal sector posed another major challenge. A large proportion of women workers in India are employed in unorganized sectors such as domestic work, agriculture, and small-scale industries where labour laws are inadequately enforced. Many women remain unaware of their rights or fear retaliation if they raise complaints against employers.

In 2019, the government introduced the Code on Wages, which consolidated four labour laws including the Equal Remuneration Act. The Code prohibits discrimination on grounds of gender in matters relating to wages and recruitment for the same work or work of similar nature. It broadens protection by using the term "gender" instead of "sex," thereby promoting inclusivity.

However, concerns remain regarding the effectiveness of the Code in addressing wage inequality. Critics argue that labour law codification may weaken worker protections due to reduced regulatory oversight and increased employer flexibility. Additionally, enforcement agencies continue to suffer from resource limitations and bureaucratic inefficiency.

The persistence of gender wage gaps despite legislative interventions highlights the limitations of legal reforms without structural changes. Women frequently work in low-paying sectors with limited bargaining power. Occupational segregation confines women to sectors traditionally viewed as feminine, such as caregiving and teaching, which are often undervalued economically.

Therefore, while the Equal Remuneration Act and the Code on Wages establish an important legal framework against gender discrimination, their success depends on effective enforcement, awareness generation, and institutional accountability. Legal reforms must be accompanied by social and economic policies aimed at empowering women and ensuring equitable participation in the workforce.

3. Gender Wage Gap and Workplace Discrimination in India

The gender wage gap represents one of the most visible manifestations of workplace inequality in India. Despite constitutional protections and labour laws promoting equal pay, women continue to earn significantly less than men across sectors and industries. The wage gap arises from a combination of structural discrimination, occupational segregation, social stereotypes, and unequal access to economic opportunities.

Women are often concentrated in low-paying and insecure forms of employment. Sectors such as domestic work, agriculture, textiles, and caregiving employ large numbers of women but offer limited financial security and social benefits. Even in organized sectors, women are underrepresented in managerial and decision-making positions, contributing to disparities in income and career growth.

Occupational segregation plays a critical role in perpetuating wage inequality. Jobs traditionally associated with women are often undervalued and poorly compensated. Conversely, male-dominated professions tend to receive higher wages and greater recognition. Gender stereotypes influence hiring decisions, promotion opportunities, and performance evaluations, reinforcing inequality within workplaces.

Another important factor is the burden of unpaid care work. Women frequently bear primary responsibility for childcare, eldercare, and household duties, limiting their ability to participate fully in paid employment. Career interruptions due to maternity and caregiving responsibilities negatively affect long-term earning potential and professional advancement.

Workplace discrimination also manifests in recruitment practices and leadership representation. Employers may hesitate to hire women due to assumptions regarding family responsibilities and maternity leave. Women

often face barriers in accessing senior positions despite possessing equal qualifications and experience. The “glass ceiling” phenomenon continues to restrict women’s advancement into leadership roles.

Sexual harassment and hostile work environments further discourage women’s participation in the workforce. Although the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides legal protection, implementation gaps remain significant. Fear of harassment and lack of institutional support contribute to lower workforce participation among women.

Intersectionality further complicates workplace inequality. Women belonging to marginalized communities based on caste, religion, disability, or rural background often face multiple layers of discrimination. Dalit and tribal women, for instance, are disproportionately represented in exploitative and low-paid labour sectors.

Economic liberalization and globalization have created new employment opportunities for women, particularly in information technology and service sectors. However, these opportunities remain unevenly distributed and primarily benefit urban educated women. Large sections of rural and informal women workers continue to experience wage exploitation and precarious employment conditions.

Addressing the gender wage gap requires a multidimensional approach involving legal reforms, social welfare policies, corporate accountability, and cultural transformation. Equal pay laws alone cannot eliminate deeply rooted social and economic inequalities without broader structural interventions.

4. Judicial Interpretation of Equal Pay and Gender Equality

The judiciary has played a significant role in strengthening gender equality and interpreting equal pay principles in India. Through progressive judgments, courts have expanded constitutional protections and reinforced the rights of women against workplace

discrimination. Judicial activism has been particularly important in recognizing equal pay as a component of social justice and constitutional equality.

One of the landmark cases in this regard is *Randhir Singh v. Union of India*, where the Supreme Court held that the principle of equal pay for equal work is not merely a directive principle but also flows from Articles 14 and 16 of the Constitution. Although the Constitution does not expressly recognize equal pay as a fundamental right, the Court interpreted it as an essential aspect of equality.

In *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa*, the Supreme Court dealt specifically with gender-based wage discrimination. Female stenographers employed by the company received lower wages than their male counterparts despite performing similar work. The Court ruled in favor of the women employees and emphasized that wage discrimination solely based on gender violates constitutional equality principles.

The judiciary has also recognized the broader dimensions of workplace equality beyond remuneration. In *Vishaka v. State of Rajasthan*, the Supreme Court laid down guidelines against sexual harassment at workplaces and recognized safe working conditions as an essential component of gender equality under Articles 14, 15, and 21. These guidelines later formed the basis of statutory legislation in 2013.

Another important judgment is *Air India v. Nargesh Meerza*, where discriminatory service conditions imposed on female air hostesses were challenged. The Court invalidated arbitrary rules related to retirement and pregnancy, recognizing them as discriminatory and violative of constitutional rights.

Despite progressive jurisprudence, judicial enforcement of equal pay principles has faced limitations. Courts often require employees to prove that they perform identical or substantially similar work, which can be difficult due to varying job descriptions and employer practices.

Moreover, litigation is expensive and time-consuming, discouraging many women workers from seeking legal remedies.

Judicial intervention has also been limited in addressing informal sector inequalities where most women workers are employed. Access to justice remains restricted for marginalized women due to poverty, illiteracy, and lack of legal awareness. Labour courts and tribunals often suffer from procedural delays and inadequate infrastructure.

Nevertheless, Indian courts have consistently interpreted equality provisions expansively and emphasized the importance of gender justice. Judicial pronouncements have contributed significantly to shaping labour jurisprudence and promoting constitutional morality. However, effective realization of judicial principles requires stronger enforcement mechanisms, accessible legal remedies, and institutional sensitivity toward gender discrimination.

The judiciary alone cannot eliminate workplace inequality, but its role in interpreting laws and protecting constitutional values remains indispensable in advancing women's rights and equal pay principles in India.

5. International Standards and Comparative Perspectives

International law has played a significant role in shaping India's legal framework concerning gender equality and equal remuneration. Global human rights instruments and labour conventions recognize equal pay and non-discrimination as essential principles for ensuring social justice and economic development.

The International Labour Organization (ILO) Equal Remuneration Convention, 1951 (Convention No. 100) obligates member states to ensure equal remuneration for men and women workers for work of equal value. India ratified this convention in 1958, thereby committing itself to eliminate gender-based wage discrimination. Similarly, the Discrimination (Employment and Occupation) Convention, 1958 (Convention No.

III) seeks to prevent workplace discrimination on various grounds including sex.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations in 1979, requires states to ensure equal employment opportunities, equal remuneration, and protection against workplace discrimination. India ratified CEDAW in 1993 and has since undertaken legislative and policy reforms to align domestic laws with international standards.

Comparatively, several developed countries have adopted stronger enforcement mechanisms to address gender inequality. Iceland, for instance, introduced mandatory equal pay certification requiring companies to prove wage equality between male and female employees. Similarly, many European countries have implemented pay transparency laws obligating employers to disclose wage structures and gender pay data.

The United Kingdom enacted the Equality Act, 2010, which prohibits discrimination in employment and mandates equal pay protections. Companies employing more than a specified number of workers are required to publish gender pay gap reports. Such transparency measures increase accountability and public scrutiny.

In contrast, India lacks comprehensive pay transparency requirements and effective institutional monitoring systems. Although legal protections exist, enforcement remains fragmented and inconsistent. Labour inspections are often inadequate, particularly in informal sectors where women constitute a major proportion of the workforce.

Another challenge is the socio-cultural context influencing women's economic participation in India. Patriarchal norms, limited access to education, early marriage, and unpaid domestic responsibilities reduce workforce participation among women. Therefore, legal reforms alone

cannot ensure substantive equality without addressing broader societal inequalities.

International experiences demonstrate that effective implementation of equal pay principles requires a combination of legislative enforcement, corporate accountability, social welfare support, childcare facilities, and public awareness campaigns. Gender budgeting, affirmative action policies, and parental leave reforms can further promote workplace equality.

India can learn from comparative international practices by introducing stronger compliance mechanisms, mandatory reporting obligations, and gender-sensitive labour policies. Adopting global best practices while considering domestic socio-economic realities may strengthen the implementation of equal pay principles and enhance women's participation in the workforce.

6. Challenges and Reforms for Achieving Workplace Equality

Despite legal and constitutional safeguards, achieving genuine workplace equality in India remains a complex challenge. Structural discrimination, weak enforcement mechanisms, socio-cultural barriers, and economic inequalities continue to undermine equal pay principles and women's employment rights.

One of the major challenges is the dominance of the informal sector, where labour laws are poorly implemented. A significant proportion of women workers are engaged in domestic work, agriculture, home-based production, and daily wage labour without formal contracts or social security protections. These workers often receive wages below minimum standards and lack effective legal remedies against discrimination.

Another challenge is inadequate enforcement of labour laws. Labour departments frequently suffer from staff shortages, lack of training, and bureaucratic inefficiency. Inspections are irregular and complaint mechanisms remain inaccessible for many women workers, especially in rural areas. Fear of retaliation, job

loss, and social stigma further discourage women from reporting discrimination.

The persistence of patriarchal attitudes also contributes significantly to workplace inequality. Social norms often perceive men as primary breadwinners while women's employment is viewed as supplementary. Such stereotypes influence employer attitudes regarding recruitment, promotions, and wage determination. Women are frequently denied leadership opportunities due to assumptions about family responsibilities.

Lack of childcare support and maternity benefits further restrict women's workforce participation. Many women leave employment after marriage or childbirth due to absence of flexible work arrangements and institutional support systems. Although the Maternity Benefit (Amendment) Act, 2017 expanded maternity leave, implementation remains limited, particularly in small and medium enterprises.

To address these challenges, India requires comprehensive reforms aimed at substantive gender equality. First, stronger enforcement mechanisms must be established through regular labour inspections, digital complaint systems, and accessible grievance redressal forums. Specialized gender equality commissions can monitor compliance with equal pay laws.

Second, pay transparency measures should be introduced requiring companies to disclose gender wage data and employment statistics. Transparency enhances accountability and helps identify discriminatory practices within organizations.

Third, awareness campaigns and legal literacy programs should educate women workers regarding their rights and available remedies. Trade unions and civil society organizations can play a vital role in supporting women workers and advocating labour reforms.

Fourth, affirmative action policies promoting women's representation in leadership positions can reduce occupational segregation and

improve workplace diversity. Corporate governance frameworks should encourage gender-inclusive hiring and promotion practices.

Finally, broader social reforms addressing education, healthcare, childcare, and social security are necessary to support women's economic participation. Achieving workplace equality requires not only legal protection but also transformation of societal attitudes and institutional structures.

Conclusion

Gender inequality in workplace opportunities and pay continues to pose a significant challenge to social justice and economic development in India. Although the Constitution guarantees equality and labour legislations prohibit gender-based discrimination, practical implementation remains inadequate due to structural barriers, socio-cultural norms, and institutional weaknesses. The principle of equal pay for equal work has been repeatedly recognized by Indian courts and supported by international legal standards, yet women continue to experience wage disparities, occupational segregation, limited leadership representation, and workplace discrimination.

The Equal Remuneration Act, 1976 and the Code on Wages, 2019 represent important legislative efforts toward promoting workplace equality. However, weak enforcement mechanisms, lack of awareness, and the predominance of informal employment sectors have reduced their effectiveness. Judicial interventions have significantly advanced gender justice by expanding constitutional interpretations and protecting women against discriminatory practices. Nevertheless, access to justice remains limited for many marginalized women workers.

The persistence of gender inequality demonstrates that formal legal equality alone is insufficient to achieve substantive equality. Addressing workplace discrimination requires comprehensive reforms involving stronger

labour law enforcement, pay transparency, corporate accountability, childcare support, and awareness generation. Comparative international experiences indicate that effective implementation depends upon coordinated institutional action and social transformation.

Ultimately, achieving gender equality in employment and remuneration is not merely a legal obligation but a moral and economic necessity. Ensuring equal opportunities and fair wages for women can contribute to inclusive growth, social stability, and democratic progress. India must therefore strengthen its commitment toward gender justice by bridging the gap between constitutional ideals and workplace realities.

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